

## **Regulation of Crop Spraying by Aircraft**

### **SEC. 69-21-1. Declaration of purpose.**

The purpose of this article is to regulate, in the public interest, the application of any hormone-type herbicide applied by aircraft for the purpose of killing weeds in a crop which is not itself injured by the herbicide, it being necessary that provision be made for regulation of the application of such herbicides.

SOURCES: Codes, 1942, Sec. 5000-21; Laws, 1952, ch. 169, Sec. 1; 1971, ch. 475, Sec. 1, eff from and after July 1, 1971.

### **SEC. 69-21-3. Exemption.**

This article shall not apply in any way to manual application of herbicides.

SOURCES: Codes, 1942, Sec. 5000-28; Laws, 1952, ch. 169, Sec. 8, eff from and after passage (approved April 16, 1952).

### **SEC. 69-21-5. Definitions.**

The term "commissioner" means commissioner of agriculture and commerce.  
For the purpose of this article the term "hormone-type herbicide" means any substance or mixture of substances producing a physiological change in the plant tissue without burning, intended for preventing, destroying, repelling or mitigating any weed.

SOURCES: Codes, 1942, Sec. 5000-22; Laws, 1952, ch. 169, Sec. 2; 1971, ch. 475, Sec. 2, eff from and after July 1, 1971.

### **SEC. 69-21-7. Licenses; application.**

(1) No person, firm or corporation shall engage in the application of hormone-type herbicides by aircraft within this state at any time without a license issued by the commissioner through his agent, the State Entomologist. Application for a license shall be made to the commissioner through his agent, the State Entomologist at Mississippi State University of Agriculture and Applied Science, State College, Mississippi. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations and other relevant matters as required pursuant to regulations promulgated by the commissioner.

(2) The commissioner may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use and application of herbicides and the dangers involved and precautions to be taken in connection with their application. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the organization to take the examination, such designee to be subject to the approval of the commissioner. If the extent of the applicant's operations warrant it, the commissioner may require more than one officer, member or technician to take the examination.

(3) Any applicant who proposes to use aircraft in the application of such herbicides shall first register with the Mississippi Department of Transportation and shall receive from such department a certificate certifying to the sufficiency and condition of the aircraft proposed to be used and as to the qualifications, training, and fitness and ability of the operator of such aircraft and shall present such certificate from the Mississippi Department of Transportation to the commissioner as a part of the application. The Mississippi Transportation Commission is authorized and empowered to adopt and promulgate such reasonable rules and regulations concerning the matters required in the certificate aforesaid as in its judgment may be needed to properly safeguard the use of aircraft in the application of such herbicides in this state.

(4) If the commissioner finds the applicant qualified, he shall issue a license, for such period as the commissioner may by regulation prescribe, to perform application of herbicides within this state. The license may restrict the applicant to the use of a certain type or types of equipment or materials if the commissioner finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the commissioner shall inform the applicant in writing of the reasons therefor.

SOURCES: Codes, 1942, Sec. 5000-23; Laws, 1952, ch. 169, Sec. 3; 1962, ch. 171, Sec. 1; 1971, ch. 475, Sec. 3, eff from and after July 1, 1971. Laws, 1992, ch. 496, Sec. 34, eff from and after July 1, 1992.

#### **SEC. 69-21-9. Licenses; suspension, revocation or modification.**

The commissioner may suspend, pending inquiry for not longer than ten (10) days, and, after opportunity for a hearing, may revoke or modify the provisions of any license issued under this article, if he finds that the licensee is no longer qualified, has engaged in fraudulent business practices in the application of herbicides, or has made any application in a faulty, careless, or negligent manner, or has violated any of the provisions of this article or regulations made thereunder.

SOURCES: Codes, 1942, Sec. 5000-23; Laws, 1952, ch. 169, Sec. 3; 1962, ch. 171, Sec. 1; 1971, ch. 475, Sec. 3, eff from and after July 1, 1971.

#### **SEC. 69-21-11. License; nonresident; service of process.**

Any nonresident individual, partnership, association, firm or corporation applying for a license to engage in the business of applying hormone-type herbicides by aircraft in the State of Mississippi shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident individual, partnership, association, firm or corporation; and such power of attorney shall be so prepared in such form as to render effective the jurisdiction of the courts of Mississippi over such nonresident applicants and make such applicants amenable to the jurisdiction of the courts of this state. Provided, however, that any such nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to so designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for designating resident agents. The commissioner shall be furnished with a copy of such designation of the secretary of state or of a resident agent duly certified by the secretary of state.

The commissioner may issue a license without examination to a nonresident who is licensed in another state substantially in accordance with the provisions of this article.

SOURCES: Codes, 1942, Sec. 5000-23; Laws, 1952, ch. 169, Sec. 3; 1962, ch. 171, Sec. 1; 1971, ch. 475, Sec. 3, eff from and after July 1, 1971.

#### **SEC. 69-21-13. Licenses; furnishing of security; action for damages.**

The commissioner shall require each person, firm, association or corporation who is granted a permit to use aircraft in the application of "hormone-type herbicides" to furnish to, and file with, the said commissioner a fidelity bond, insurance policy, or other security satisfactory to the commissioner, conditioned that the principal therein named shall pay for any and all damages suffered by any person, firm, association or corporation, by reason of the negligence of the principal or his or its agents or employees in the conduct of the business authorized by this article, and shall honestly conduct said business and as otherwise conditioned by said commissioner, provided that in no case shall a bond or other security provided for herein be less

than ten thousand dollars (\$10,000.00). Any person, firm, or corporation having a right of action, such person, firm, association or corporation, or any person, may bring suit against them or either of them for any damages caused by their negligence in the conduct of the business authorized hereunder, but in no event, however, shall the surety be named in or made a party to such action. No action for such damages may be brought or maintained, however, unless the person claiming the damages shall have filed with the commissioner a written statement claiming that he has been damaged, on a form prescribed by the commissioner, within sixty (60) days after the date that the damage occurred, or prior to the time that twenty-five percent (25%) of a crop damaged shall have been harvested. Such statement shall contain, but shall not be limited thereto, the name of the person or persons who operated the aircraft, if known, the permit number of the aircraft, if known, the name of the owner or lessee of the land on which the crops are grown and for which damages are claimed, and the date on which it is alleged that the damage occurred. The commissioner is required to prepare a form to be furnished to persons to be used in such cases, and such form shall contain such other requirements as the commissioner may deem proper. The commissioner shall, upon receipt of such statement, notify the licensee and/or operator of the aircraft, and the owner or lessee of the land or other person who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested. Provided, however, that notwithstanding any other provision of this article, any person claiming damages hereunder may give notice to the landowner or lessee of the treated crop claiming that he has been damaged within sixty days after the date that the damage occurred, or prior to the time that twenty-five percent (25%) of a crop damaged shall have been harvested, which said notice shall preserve said persons, claiming damages, cause of action. Should the surety furnished become unsatisfactory, said applicant shall execute a new bond and should he fail to do so, it shall be the duty of the commissioner to cancel his license and give him notice of said fact, and it shall be unlawful thereafter for such person to engage in said business without obtaining a new license.

SOURCES: Codes, 1942, Sec. 5000-23; Laws, 1952, ch. 169, Sec. 3; 1962, ch. 171, Sec. 1; 1971, ch. 475, Sec. 3, eff from and after July 1, 1971.

#### **SEC. 69-21-15. Allegations and proof in action for damages.**

In all actions for damages to crops caused by application of "hormone-type herbicides" by aircraft or otherwise the plaintiff and/or complainant shall allege and prove that the damage complained of is the result of negligence on the part of the party or parties defendant and/or their agents or employees, or persons with whom they have contracted to apply such herbicides.

SOURCES: Codes, 1942, Sec. 5000-23; Laws, 1952, ch. 169, Sec. 3; 1962, ch. 171, Sec. 1; 1971, ch. 475, Sec. 3, eff from and after July 1, 1971.

#### **SEC. 69-21-17. Reports.**

The commissioner may by regulation require any licensee to maintain such records and furnish reports giving such information with respect to particular applications of hormone-type herbicides and such other relevant information as the commissioner may deem necessary.

SOURCES: Codes, 1942, Sec. 5000-25; Laws, 1952, ch. 169, Sec. 5; 1971, ch. 475, Sec. 5, eff from and after July 1, 1971.

#### **SEC. 69-21-19. Materials and methods of application.**

The commissioner may, by regulation, prescribe materials or methods to be used and prohibit the use of materials or methods in application of hormone-type herbicides to the extent necessary to prevent injury, by reason of the drifting, washing, or application of such materials, to desired crop plants or property other than that owned or leased by the person for whom the materials are applied. In issuing such regulations, the commissioner shall give consideration to pertinent

research findings and recommendations of other agencies of this state or of the federal government.

No such rule or regulation shall be effective unless first submitted to and approved by the advisory board created under the provisions of section [69-25-3](#), Mississippi Code of 1972.

SOURCES: Codes, 1942, Sec. 5000-24; Laws, 1952, ch. 169, Sec. 4; 1971, ch. 475, Sec. 4, eff from and after July 1, 1971.

#### **SEC. 69-21-21. Rules and regulations.**

The commissioner may perform such acts, issue and amend such orders, and make, promulgate and amend such reasonable general or special rules, regulations and procedures, and establish such minimum standards, consistent with the provisions of this article, as he shall deem necessary to carry out the provisions of this article and to perform his duties hereunder. No such rule or regulation shall be effective unless first submitted to and approved by the advisory board created under the provisions of section [69-25-3](#), Mississippi Code of 1972.

SOURCES: Codes, 1942, Sec. 5000-26; Laws, 1952, ch. 169, Sec. 6; 1971, ch. 475, Sec. 6, eff from and after July 1, 1971.

#### **SEC. 69-21-23. Cooperation.**

The commissioner may cooperate with any other agency of this state or its subdivisions or with any agency of any other state or of the federal government for the purpose of carrying out the provisions of this article and of securing uniformity of regulations.

SOURCES: Codes, 1942, Sec. 5000-30; Laws, 1952, ch. 169, Sec. 10; 1971, ch. 475, Sec. 8, eff from and after July 1, 1971.

#### **SEC. 69-21-25. Enforcement.**

For the purpose of carrying out the provisions of this article the commissioner or his employees may enter upon any public or private premises at reasonable times in order to have access for the purpose of inspecting any equipment subject to this article.

SOURCES: Codes, 1942, Sec. 5000-29; Laws, 1952, ch. 169, Sec. 9; 1971, ch. 475, Sec. 7, eff from and after July 1, 1971.

#### **SEC. 69-21-27. Penalties.**

Any person violating the provisions of this article or the regulations issued hereunder shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense.

SOURCES: Codes, 1942, Sec. 5000-27; Laws, 1952, ch. 169, Sec. 7, eff from and after passage (approved April 16, 1952).